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REMARKSDeclaration of Mr. Yamazaki

Tests have been run and are reported herein by way of a Declaration of Mr. Yamazaki. It will be noted at the outset that the Declaration is currently unexecuted, however, the data presented therein was obtained from Mr. Yamazaki and, therefore, it is respectfully submitted that such data is credible. The Declaration has been forwarded to Mr. Yamazaki for execution and, in the meantime, it is respectfully requested that the Declaration be considered in order to expedite the prosecution of this Application.

Rejection

In the Office Action, the Examiner had combined Nozawa with Rimai in order to reject Claims 1, 6-8, 10 and 11. It had been the Examiner's position that Rimai teaches the claimed ratio of the toner particles having a circle corresponding diameter measured by a flow particle image analyzer of from not less than 0.60 to less than 1.00 microns is not more than 5% in number.

It is Applicants' position that this ratio limitation produces surprising and unexpected superior results which one of skill in the art would not expect based on the readings of Nozawa and Rimai. These surprisingly unexpected superior results, which are produced when the toner meets the claimed ratio limitation, are substantial evidence of the non-obviousness of the claimed Invention in light of the combination of Rimai and Nozawa.

Specifically, the Examiner will note that Applicants produced the material of Example 70 of Nozawa. Example 70 of Nozawa is deemed to be the closest prior art. As noted in the Table following Paragraph 6 of the attached Declaration, this material is labeled Nozawa 2 and had a ratio of 5.8, which is outside the claimed range.

Following the teachings of Nozawa and making a slight change to the guide vane angle, a toner was produced that had a ratio that fell within the claimed range. Such material was labeled Nozawa 3 and had a ratio of 4.8%.

Both of these materials were then further processed to make colored particles which were then employed in a copier and tested for both fog density and half tone unevenness.

As noted in the Table following Paragraph 9 of the attached Declaration, it can be seen that, after 50,000 copies, the fog density of Nozawa 3 is substantially better than the fog density of Nozawa 2. The improvement provided for by Nozawa 3 or Nozawa 2 is about 400%.

Likewise, it can be seen that the half tone unevenness substantially deteriorated after 50,000 copies in Nozawa 2 compared to Nozawa 3. Nozawa 3 is vastly superior to Nozawa 2 in half tone unevenness.

It is Applicants' position that these dramatic improvements, which are represented by Nozawa 3 in the Declaration, evidences the unexpected results which can be obtained with the present Invention. It is submitted that one of skill in the art, when reading the combination of Rimai and Nozawa, is not apprised that such an improvement can be obtained when the ratio limitation is met.

Furthermore, it will be noted that Rimai is over twenty years old while Nozawa is only a few years old. Clearly, Nozawa was aware of Rimai and Nozawa could have employed the teachings of Rimai in its application. Nozawa did not employ Rimai because, if Nozawa had employed Rimai, Nozawa would obtain the results which are shown in the Declaration as attached hereto.

In light of the surprising and unexpected results which are attested to in the attached Declaration, see Paragraph 11, by one of skill in the art, it is respectfully submitted that the claims as presented herein are patentable over Nozawa or Rimai, taken alone or in combination.

Conclusion

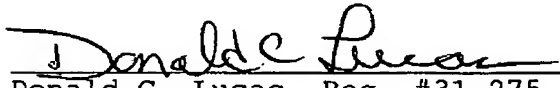
In view of the foregoing and the enclosed, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are

hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By:


Donald C. Lucas, Reg. #31,275
Attorney for Applicant(s)
475 Park Avenue South, 15th Floor
New York, NY 10016
Tel. # 212-661-8000

DCL/mr

Encl: Unexecuted Declaration of Mr. Yamazaki